

# Town of New Windsor

555 Union Avenue New Windsor, New York 12553

#### OFFICE OF THE PLANNING BOARD

# WEDNESDAY - SEPTEMBER 25, 2002 - 7:30 PM

#### TENTATIVE AGENDA

CALL TO ORDER ROLL CALL

#### **POSSIBLE Z.B.A. REFERRALS:**

- 1. CARALEX REALTY LOT LINE CHANGE (02-28) INDUSTRIAL WAY (SHAW)
- 2. CARALEX REALTY SITE PLAN (02-29) INDUSTRIAL WAY (SHAW) Proposed construction of 31,750 s.f. warehouse building.

# **PUBLIC HEARING:**

- 3. WVR REALTY (MAVIS TIRE) (02-20) SHOP RITE PLAZA BUILDING "D" (ROSENBERG) Proposed tire and auto service area in existing building.
- 4. COVINGTON ESTATES ( N/F HARP) (01-41) RT. 300 (TECTONIC) Proposed condominium project.

# **REGULAR ITEMS:**

- 5. HIGHVIEW ESTATES SUBDIVISION (01-64) TOLEMAN ROAD (YANOSH) Proposed 6-lot residential subdivision.
- 6. KFC / LONG JOHN SILVER (HEADLEE CORP) 02-26 RT. 32 (SHAW) Proposed demolition of existing building (formerly Ponderosa) and construction of new building with site improvements.
- 7. SCHLESINGER SUBDIVISION (02-27) STATION ROAD (SHAW) Proposed 6-lot residential subdivision.

# **DISCUSSION**

8. NEW YORK INTERNATIONAL PLAZA – ENVIRONMENTAL REVIEW

#### **ADJOURNMENT**

(NEXT MEETING – OCTOBER 9, 2002)

TOWN OF NEW WINDSOR

PLANNING BOARD

SEPTEMBER 25, 2002

MEMBERS PRESENT: JAMES PETRO, CHAIRMAN

JIM BRESNAN
RON LANDER
JERRY ARGENIO
THOMAS KARNAVEZOS

ALSO PRESENT: MARK EDSALL, P.E.

PLANNING BOARD ENGINEER

MICHAEL BABCOCK BUILDING INSPECTOR

ANDREW KRIEGER, ESQ. PLANNING BOARD ATTORNEY

MYRA MASON

PLANNING BOARD SECRETARY

#### REGULAR MEETING

MR. PETRO: I'd like to call the September 25, 2002 meeting of the New Windsor Planning Board to order. Please stand for the Pledge of Allegiance.

(Whereupon, the Pledge of Allegiance was recited.)

# POSSIBLE Z.B.A. REFERRALS

#### CARALEX REALTY LOT LINE CHANGE (02-28)

Mr. Gregory Shaw of Shaw Engineering appeared before the board for this proposal.

MR. PETRO: First on tonight's agenda we have possible ZBA referrals, Caralex Realty lot line change represented by Mr. Shaw. We'll do the lot line change first, correct? Why would the lot line change be going to the ZBA?

MR. SHAW: It would not be, the reason we're doing the lot line change first so I can explain to the board how we're taking approximately 8/10 of an acre of a parcel owned by Caralex, moving it to an adjacent lot owned by Caralex.

MR. PETRO: Under possible ZBA referrals to keep them together?

MR. SHAW: Right, both parcels are on Industrial Way, one lot is approximately 17.8 acres and the other lot is 4.35 acres. And as I just mentioned, we're looking to take 0.79 acres from one lot of Caralex Realty and add it to the other lot of Caralex Realty, not asking for the board to take any action tonight. The purpose of putting it on the agenda was to explain this proposed land transfer because the next item on the agenda which is the referral to the ZBA reflects this transfer of land to the lot.

MR. PETRO: If the transfer takes place then your application for the site plan would be more valid, obviously?

MR. SHAW: Correct, that's the sole purpose of having this item on the agenda, just as a prelude to the rejection to the Zoning Board of Appeals.

MR. PETRO: If we want to do the lot line change tonight, why couldn't we do it?

MR. SHAW: You could do it tonight.

MR. PETRO: But it wouldn't be necessary if you don't get the necessary variances so why bother?

MR. SHAW: Correct and we can pick it up when I return under site plan review.

MR. PETRO: Item number 2. Anybody have an objection to the land transfer?

MR. BRESNAN: No.

MR. ARGENIO: No.

#### CARALEX REALTY SITE PLAN (02-29)

Mr. Gregory Shaw of Shaw Engineering appeared before the board for this proposal.

MR. SHAW: Now that I've explained how we're proposing to take 0.79 acres from one lot at Caralex and bring it into the other, we want to build something on it and this is a new warehouse building of 31,750 square feet. It's in a PI zone which requires a minimum lot area of 40,000 square feet, we're able to comply with that. satisfy all the conditions of your zoning ordinance with respect to building height based upon 12 inches per foot to the nearest lot line, as you can see to our property to the north, we're approximately 22 feet away which would give us a maximum building height of 22 We're proposing 30 feet, therefore, we need to go to the Zoning Board of Appeals and get a building height variance. So I'd be looking for the board to reject approval tonight to allow me to proceed to the ZBA for that one variance.

MR. PETRO: Couldn't move the building back any further?

MR. SHAW: No, we're pretty well located between the land to the south, the buffer line of the New York State DEC and the property line separating this parcel from the lands of Verla to the north.

MR. PETRO: Why the angle on the building, is that following the road?

MR. SHAW: The reason for the angle on the building is to maximize the size of the building. In that buildable area, we have tried other geometry and what really dictates is that we have an existing easement which runs through the property for two sanitary sewer lines, one is the 12 inch line, the other is a 30 inch line, which is the new intersector from Stewart. Because of the angle of that line in order to utilize it for the front yard setback, we have created a new lot line closest to Temple Hill Road, then our building line is parallel to that. If we were to twist it so that it was parallel to Industrial Way, and put in the

loading docks, we'd be losing building area.

MR. PETRO: What variances are you seeking, building height?

MR. SHAW: Building height and only building height.

MR. PETRO: That's the only one?

MR. SHAW: Yes.

MR. EDSALL: Are you sure that with all the wetlands subtracted that you might not need an area variance for this lot as well?

MR. SHAW: I'll have to go back and doublecheck the million dollar question. Where is the rest of the DEC wetlands line?

MR. EDSALL: In the back.

MR. SHAW: In the back and as it also wraps around this area, Mark, the wetlands line I've shown on the plan was flagged by the DEC and approved by them, we have mapping with their approval stamp on it. We did not have the entire site flagged because it wasn't germane to what we were doing.

MR. PETRO: Where is the road into this building?

MR. SHAW: This road is going to be coming down in this fashion, I will show you on the map. What we have is Industrial Way which is this white area and it crosses over this lot, what will be this lot and enter this parcel.

MR. PETRO: Existing now?

MR. SHAW: That's existing.

MR. PETRO: All right, I have it on this plan.

MR. SHAW: What we're proposing to do is to add additional pavement which is shaded and give each lot mutual right-of-ways to allow a vehicle who wants to

enter the new building into the loading area the ability to come down Industrial Way which is a town road cross over onto their property onto this lot owned by Caralex also then back into the loading area then be able to pull out.

MR. PETRO: Six spots on the side where the existing warehouse is, where is the backout for those spots, onto that pavement area which is the road?

MR. SHAW: Well, it's more than just a road, you probably have pavement width 70 feet, 75 feet in width, so I think there's more than enough room to be able to back out.

MR. PETRO: You're backing out into the flow of traffic also, correct?

MR. SHAW: No, I don't know if I would--

MR. PETRO: You're calling it backout into a parking lot. In other words, it's a big huge parking lot.

MR. SHAW: Correct.

MR. LANDER: As long as these two pieces stay under the same ownership.

MR. PETRO: And/or there's no further development to that side.

MR. SHAW: There will not be.

MR. ARGENIO: I think they're bound by wetlands.

MR. SHAW: We're finished extending Industrial Way, Industrial Way is going to end where it is. Mark had a comment at the workshop about possibly putting in the cul-de-sac to memorialize the end of the town road but I'm not going to be extended to the west at all due to the wetlands.

MR. PETRO: That's what they said about the Thruway, it was going to end in Yonkers.

MR. LANDER: But as long as these two pieces are under the same ownership, they have the right to back out here into this parking lot.

MR. SHAW: Even if they were to sell a lot to somebody else, these are going to be filed and recorded easements, all right. If you will notice on the subdivision plan, excuse me, the lot line change plan, those easements are spelled out in metes and bounds so I think even if they wanted to sell a parcel, they would have the right to access over the other lot in order to get to Industrial Way.

MR. PETRO: Mark, you haven't reviewed this entirely until it goes back?

MR. EDSALL: No, I figured you're going--

MR. PETRO: Why don't we set it up for a variance, the variance that you're seeking is how much height?

MR. SHAW: Eight feet of building height.

MR. PETRO: If for some reason you had to turn the building, obviously, you've made the building smaller that would only decrease, you're seeking a variance, if it had to be turned for some reason, the variance may not be enough. Why are you seeking only 8 feet? Why don't you go for a little bit more? I'm just thinking ahead of why ask for just that little bit unless you think that's sufficient.

MR. SHAW: Well, I think it's sufficient, plus our building is 22 feet from the property line, even though the adjacent property is owned by my client. Also, you don't want to get too close. He can live with 22 feet. I think that's appropriate.

MR. LANDER: What is it, 15 feet is that front yard?

MR. SHAW: That would be a side yard.

MR. PETRO: As you slide that building closer to the wetlands, he would gain footage, you realize that. Why didn't he do that?

MR. ARGENIO: Into the buffer zone.

MR. SHAW: Probably into the buffer zone.

MR. PETRO: Motion for final approval?

MR. ARGENIO: So moved.

MR. BRESNAN: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board grant final approval to the Caralex Realty site plan on Industrial Way. And Andy, can we grant final approval even though it's only a referral to the zoning board?

MR. KRIEGER: Grant final approval for what?

MR. PETRO: Grant final approval, we're going to turn it down, obviously, to send him, grant final approval on the site plan which is built on the property, that's not part of that site plan, it's technical, but I'm just wandering if that's the right procedure.

MR. KRIEGER: That part of--

MR. PETRO: The subdivision, I mean the lot line change has not taken place yet. Follow me?

MR. KRIEGER: Yes.

MR. PETRO: We're now going to do a negative roll call, I'm going to take a negative on it, send them for their variances on property that's not part of that site yet.

MR. KRIEGER: Should be another good reason for voting a negative, just in case somebody wanted a good reason.

MR. PETRO: Procedurally does that make sense?

MR. KRIEGER: We're going to take action, other than sending him to the zoning board, it would be a good point but considering that that's the action that's contemplated going to the zoning board, it won't

prevent that.

MR. PETRO: Motion has been made and seconded. Any further discussion? Okay, roll call.

# ROLL CALL

MR.	ARGENIO	ИО
MR.	BRESNAN	NO
MR.	KARNAVEZOS	NO
MR.	LANDER	NO
MR.	PETRO	NO

MR. PETRO: At this time, you have been sent to the New Windsor--I'm not saying this again, I've said it so many times, you know what I'm saying. If you get lucky and get your variances, you can come back.

MR. SHAW: Thank you.

# **PUBLIC HEARING:**

# WVR REALTY (MAVIS TIRE) (02-20)

Mr. Jeff Rosenberg and Richard Kroeger, Esq. appeared before the board for this proposal.

MR. PETRO: Shop Rite Plaza, Building D, proposed tire and auto service area in existing building.

MR. KROEGER: I'm Richard Kroeger from Jim Sweeney's office.

MR. ROSENBERG: Jeff Rosenberg from WVR. I was in front of you guys probably a couple months ago with a plan to change the use for Hollywood Video site to Mavis Discount Tire store.

MR. PETRO: Known as Retail D.

MR. ROSENBERG: That's correct. Do you want me to put up a site plan?

MR. PETRO: Why don't you put it up there so we can see what we're doing. Anybody here for this public hearing? Because we're going to review it first as a board then we'll open it up to the public. Okay.

MR. ROSENBERG: We have a change of use from the Hollywood Video which is retail use to the auto, I guess it's auto repair shop use. The board asked for a specific to Mavis tire so it's not auto repair and we have a letter prepared that we're willing to sign which limits our use of this building. Why don't you pass out a copy of that.

MR. LANDER: Jeff, do you have pictures of what this front of the building is going to look like?

MR. ROSENBERG: Yeah, this is pictures of what some of the other Mavis Tire buildings look like.

MR. LANDER: Is it going to look like this?

MR. ROSENBERG: Similar, except, you know, it's got the

stucco instead of the blue color. I don't remember, what color are you guys going to do the building, is it going to remain the same?

MR. DAVID SAVARO (PHONETIC): It's going to be a light page color.

MR. LANDER: It's going to blend in with what's there.

MR. ROSENBERG: Yeah but these are the doors, they like to use the glass doors.

MR. PETRO: One of our previous concerns was the aesthetics of the front of the building cause it's facing 32.

MR. ROSENBERG: Right.

MR. PETRO: What's that bird there? Is that your Mavis duck? What's that, a mascot? Okay, you're calling Retail D as a retail space, that should be modified on the plan. Mark, how do you want it to read?

MR. EDSALL: Assuming that they obtain your approval, we can just call it out as the auto repair or tire sales if it's going to be restricted by this letter as a condition of the special permit.

MR. PETRO: You've read the letter and Andy, you've read the letter also?

MR. EDSALL: I have not seen it yet.

MR. KRIEGER: I'm reading it for the first time now.

MR. PETRO: The board has read it, I felt it was acceptable, if counsel thought it was good enough to attach to the plan, you have to sign it too, Jeff.

MR. ROSENBERG: Do you want me to sign this copy?

MR. PETRO: Let them read it, see if it's acceptable.

MR. EDSALL: Jim, might be worthwhile just for the minutes to be clear that normally on a site plan

restriction of the particular use or business is not an option, however, this is a special permit use and the board had certain concerns with regard to how that special permit was going to fit into the neighborhood, both in operation and aesthetics, that's the reason why they're offering this restriction.

MR. PETRO: Thank you.

MR. LANDER: Jeff, there's no way we can turn these doors around on this building so they're not facing 32?

MR. ROSENBERG: No, not the way the building is situated because behind the building is the main drive that goes passed the supermarket.

MR. LANDER: You've got 30 feet there.

MR. EDSALL: This is the only way that it would work traffic wise.

MR. ROSENBERG: In terms of color, what color do you plan on using for the frames around the doors?

MR. SAVARO: The mullions inside the windows of the overhead doors would be white.

MR. ROSENBERG: Is there any way to--

MR. LANDER: Calm that down a little bit so it doesn't--

MR. ROSENBERG: He can go with the green which matches, that would match, I think the rest is black.

MR. SAVARO: Rest of?

MR. ROSENBERG: Mullions around the rest of the windows.

MR. SAVARO: No, it would be white, but we can do it all in green which is a nice look.

MR. LANDER: So it doesn't jump out at you, I know you want as much exposure as you can get.

MR. PETRO: See the crosshatch is 8 feet, the spots are 8 feet also in the handicapped?

MR. BABCOCK: Yes.

MR. ROSENBERG: He said that's okay if you want a dark green or--

MR. ARGENIO: Jim, was the intent of the letter to ensure that in the event the Mavis thing with Mr. Rosenberg doesn't pan out that in four years John's Service Center doesn't open up there?

MR. PETRO: We don't want it to turn into a garage.

MR. ARGENIO: That's not what this letter says.

MR. PETRO: It says, I thought it said on the bottom once Mavis didn't follow through that it would--

MR. ARGENIO: Would not revert back to its former approved use. I interpret that as meaning it would not revert back to retail. I don't know, I'm not the attorney, Andy's the attorney but--

MR. KRIEGER: I happen to agree with you.

MR. ARGENIO: The top sentence says Mr. Rosenberg won't rent any other space in the plaza to another tire store, that's fine, that's between Mr. Rosenberg and Mavis and the bottom says that the use of Retail D will not revert back to retail, there's nothing in here that says upon a transfer of the lease from Mavis to someone else John's Service Center can't go in there or Jiffy Lube can't go in there or some other.

MR. PETRO: Well, they could have the exact same use, that's what we're granting, we're not granting it to Mavis, we're granting it to the building Retail D.

MR. ARGENIO: We're looking for the exact same use is acceptable, but a repair shop with oil and cars parked outside of it is what we don't want to have. And I don't interpret this letter as restricting that use.

MR. EDSALL: I tend to agree with Jerry, it's not doing the job that we want.

MR. ARGENIO: I don't mean to complicate things, Jeff.

MR. KRIEGER: Addressing myself to that problem, the special permit if granted by this board allows auto repair, it doesn't, it didn't necessarily limit it to Mavis particularly so Jerry's point it could be transferred and if this board will have no control over that, that has to do with Mavis' lease rights and whatever they may be as negotiated out.

MR. PETRO: We're trying to get away from the auto repair, that's what we're trying to do.

MR. ROSENBERG: Give them a hook, if it changes to a different occupant, they have to come for a permit.

MR. PETRO: Say again.

MR. ROSENBERG: David from Mavis Tire.

MR. SAVARO: David Savaro, maybe if there's a change in tenancy that the new tenant would have to come and get their own use permit if the use permits.

MR. PETRO: Yeah, but it doesn't work because we're giving the special use permit to the section, block and lot number in that building, it's not going to you.

MR. EDSALL: But that's why I made the comment I did. The point is you had concerns and how they're mitigating your concerns for the special permit is they're submitting a site specific, owner specific, architecturally specific proposal, if it changes, you should have another bite at the apple.

MR. PETRO: One step further, say if it changes not only go back, but will not be used for auto repair, put it right in the letter, very simple.

MR. KRIEGER: Yes, that will that take care of the further concern. This letter is limited to if the, by

its own terms if the Mavis place does not come to pass, what happens if it comes to pass, it only exists for a year and Mavis, the ownership, the use changes or Mavis vacates the premises for any one of a thousand possible reasons, somebody can come in and argue yeah, well, it did come to pass, it was there for a while.

MR. ROSENBERG: Should it revert if this use vacates the premise, should the approval revert to retail?

MR. PETRO: No, not necessarily. Mavis, I think the use, if this use should no longer be acceptable, it would have to go back to planning board and over and above that, we should also state in the letter that under any circumstances, there will be no auto repair, so just make it more to the point.

MR. KRIEGER: Yeah.

MR. ROSENBERG: Now, Mavis does do oil changes, I think, right?

MR. SAVARO: We do have light repairs, you know, we do some brake work, the tire component of the business is about 65 percent of our business, the rest is alignments and we do brake work.

MR. PETRO: I don't think we're envisioning that as the problem, I'm envisioning engines laying outside.

MR. SAVARO: I make the distinction between auto repair and our use, for the sake of the minutes, I don't, there may need to be a further clarification of that.

MR. ARGENIO: I agree with you and what I'm envisioning is something similar to repairs similar to what they do at Monro Muffler across the way at 94.

MR. PETRO: That's not our problem, we're trying to get away from one step further than that.

MR. ARGENIO: I understand that and I agree with it, that's my point.

MR. PETRO: Okay, reconstruct the letter.

MR. ROSENBERG: So we need--

MR. KROEGER: We need the letter redone before the board will act.

MR. PETRO: We can make it a subject to if we get that far, but if we get that far, we'd have to have the letter in place probably put on the plan. Mark has to be happy with it and before anybody signs the plan, so it's not that you have wasted a lot of time, just has to be redone to make everybody happy.

MR. KROEGER: So we'll send it out prior and get the approval.

MR. ROSENBERG: No, no.

MR PETRO: Who is going to be proofreading that?

MR. EDSALL: I'll check it for you.

MR. PETRO: You understand what we want?

MR. ROSENBERG: Yes, we'll submit to Mark.

MR PETRO: Again, I'm restating it not just Mavis Tire but that use whatever this use is for Mavis Tire which is tires, maybe put a couple specifics in there and somewhere in the letter, make sure there's no auto repair under light auto repair highlight it so then it has to come back to the planning board for review of the special use permit.

MR. KROEGER: Even though there's some limited auto repair.

MR. PETRO: We just discussed that a body shop isn't somebody taking a dent and taking a spray can and fixing the dent. A body shop is a body shop, we can make that distinction, fire inspectors will be there, building inspector is always around, so we'll know if we start seeing engines being pulled.

MR. ROSENBERG: Planning board chairman's always there.

MR. PETRO: I ride there probably five times a day, if I see a car lot starting to show up and junk cars, that kind of thing, that's what we're trying to keep out of that spot. Plus I'm sure you wouldn't want it there anyway. Other tenants would go nuts and you'd have a problem anyway.

MR. ROSENBERG: Right.

MR. PETRO: So you're going to review that, Mark?

MR. EDSALL: Yes.

MR. PETRO: Let's go on to something else. This is a public hearing, let's open it up to the public. September 9, 2002, 141 addressed envelopes containing the attached notice of public hearing were mailed out. If someone here would like to speak for or against this project, state your name and address, come forward and state your concerns. Is there anyone here who'd like to speak? Let the minutes show no one is here to speak. We're going to address the board so I'll entertain a motion from the board to close the public hearing.

MR. ARGENIO: So moved.

MR. BRESNAN: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board close the public hearing for the Big V Town Center site plan amendment. Is there any further discussion from the board members? If not, roll call.

ROLL CALL

MR. ARGENIO AYE
MR. BRESNAN AYE
MR. KARNAVEZOS AYE
MR. LANDER AYE
MR. PETRO AYE

MR. PETRO: At this time, I'll open the site plan back

up to the board for any further comments. Mark, do you have anything else you want to talk about specifically?

MR. EDSALL: Yeah, on July 10, you took lead agency, I think this is an appropriate time to consider a negative dec based on your information.

MR. PETRO: Entertain a motion for negative dec.

MR. LANDER: So moved.

MR. ARGENIO: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board declare a negative dec under the SEQRA process for the Big V Town Center WVR Realty, Mavis Tire application. Is there any further discussion from the board members? If not, roll call.

#### ROLL CALL

MR.	ARGENIO	AYE
MR.	BRESNAN	AYE
MR.	KARNAVEZOS	AYE
MR.	LANDER	AYE
MR.	PETRO	AYE

MR. PETRO: I think we have reviewed this enough times, we have a 6 foot sidewalk all the way around it, is that except for where the doors are?

MR. ROSENBERG: Right.

MR. PETRO: Mr. Lander asked that and that's on the plan. That flow of traffic, Mark, is fine?

MR. EDSALL: It's fine. My only comment was the minor correction to call it out as that use on the plan, if we get that in the letter, I believe those are the only two open items.

MR. PETRO: Yeah and the colors.

MR. ROSENBERG: Yeah, well--

MR. PETRO: Can somebody give me a motion for a final and we have highway approved on 7/10/02 and fire approval 7/9/02, motion for final, I'll do the subject to's.

MR. ARGENIO: So moved.

MR. BRESNAN: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board grant final approval to the WVR Real Estate site plan amendment Building D Mavis Tire subject to that Retail D be taken off the plan and put in the exact use which we're calling special and that the letter that we discussed 15 minutes earlier be written and accepted by our planning board engineer, once that's happened, the plans can be signed. Is there any further discussion from the board members? If not, roll call.

#### ROLL CALL

MR.	ARGENIO	AYE
MR.	BRESNAN	AYE
MR.	KARNAVEZOS	AYE
MR.	LANDER	AYE
MR.	PETRO	AYE

### COVINGTON ESTATES (N/F HARP) (01-41)

John Cappello, Esq., Mr. Tim Miller and Ms. Jane Samuelson appeared before the board for this proposal.

MR. PETRO: This is a proposed condominium project. This application proposes development of the three tax parcels with 124 multi-family housing units. application was previously reviewed at the 13 June, 2001, 10 October, 2001, 22 May, 2002 planning board meetings. This application is before the board for a public hearing at this time. Property is located in an R-5 zone district of the town, bulk information on the plan is correct as presented and it's a permitted use in the zone. It's also in a designed historic corridor so Mike, I guess we're talking about that earlier, designed historic corridor, did we do anything at all, do you have anything on that? Okay, you want to make your presentation then we'll open it up to the people for a public hearing.

MR. CAPPELLO: My name is John Cappello, attorney with Jacobowitz & Gubits here with Tim Miller from Tim Miller Associates. Tim is the planner who's the author of the full environmental assessment form we filled in. I also have Jane Samuelson from Tectonic and Rusty Tilton from New Horizon Engineering who also did engineering on the project and David Weinberg from Landmaster, the developer of, the proposed developer of the project. This project has been before the board for about a year as we have been working out the details, we're happy to present the plan to the board and the public tonight. What we're looking at is a 124 multi-family development, this is Route 300 heading towards Vails Gate, this would be the Continental Manor development and once again, this is the Five Corners intersection just a little bit south of this project. What we will be presenting tonight is not just the project, but Tim Miller will be discussing most of the, presenting the plan and discussing some of the environmental issues the board raised. before I give it over to Tim discuss a couple issues that I know have been hanging around with the planning board at least for a while that we have been working on over the course of the last year to rectify the first

issue involved, the road, and the actual ownership of the roadbed. There was offers of dedication, various documents to the town over the years and there was some confusion as to who owned what. We have worked with the town attorney over the course of the last year to clarify that to give correction to provide an offer of dedication for the proposed access road to clarify the ownership of the town from Route 300 all the way back to the railroad tracks, we intend as you will see to build up to here and then the town would own the portion from--

MR. PETRO: Let me hold you up there. I want it built to the property line. Did somebody talk me out of that for a reason because we didn't have to plow it? What was the reason that that wasn't done?

MR. EDSALL: More of a concern of having a stub road that could be abused, it would be an attractive nuisance.

MR. PETRO: Downside is the people who live in the two condos on either side of that road, nine years from now when we go to build the road are going to say we didn't know the road was there, I planted grass there, I planted flowers, bap, bap, bap, bap, I've got to hear all that junk.

MR. CAPPELLO: We'll put notes on the plans that the landscaping is subject to the offer of dedication. We'll file an offer of dedication in the County Clerk's Office so that will put everyone on notice, advising anyone of this, when they get their title reports that this land is offered and subject to an offer of dedication so they'll know from the very beginning and also the landscaping, this will be the entire area will be owned as condominium, so the homeowners association will be responsible, won't be one individual owner, so they'll know, they'll keep this as a unified development.

MR. PETRO: What you're saying is 100 percent, it's right and true, but in reality, nobody's going to together know that whoever lives there and everybody is going to say we don't want the through traffic so but

if that road is built and goes there and people see it there for the next ten years, they know something's up when they're buying there because if you think everybody is going to read the perspectus and everything that you just said and understand it, not gonna happen.

MR. CAPPELLO: Well, I think they'll understand the maps, we'll work with the town, but I think building it and I'm speaking from a bit of experience if you build it and come back in ten years, people still won't want it to be a through road and that's human nature. We'll put as much on the record so that everybody can be put on notice and you can complain all you want but if you were put on notice and you have the notice, you don't have a legal right and the town will have to do it because no matter what you do--

MR. PETRO: Why are you opposed to bringing that road over there, just for cost?

MR. CAPPELLO: Not just cost, it will serve as an area for garbage to collect or, you know.

MR. PETRO: How many feet is it to the property line, do we have a scale there?

MS. SAMUELSON: It's about a hundred feet.

MR. CAPPELLO: About a hundred.

MR. ARGENIO: Bring it in 10 or 20 feet.

MR. PETRO: I'm not sure yet, we're going to discuss that because I think not everybody is on the same page as me, let's talk about it some more.

MR. CAPPELLO: As we go through the presentation, you'll see to build the access road and to do this development, it will be done, we'll have to have preliminary SEQRA done, preliminary approval then we'll have to go get the various agency approvals, as we go through the various agency approvals and discuss this, this won't impact building this, it won't impact the layout, sewer, water, any of the important issues that

need review by the other agencies, so it could be an open item.

MR. PETRO: I'm off on a tangent about this, it's a pet thing for me to try to get more open roads in the Town of New Windsor so we can drive around. It takes me a half hour to get out of my driveway. And when we have a chance to make a road and open up a road, people scream and yell and that, so do it now while we're building all the units and it saves headaches, don't forget you're going to be long gone, whoever built this is going to be long gone.

MR. CAPPELLO: I will probably be representing the guys trying to build the Thruway.

MR. PETRO: You'll be one of the homeowners saying I told them I didn't want the road there. We'll come back to that. I want to talk to Mark and the other members, see how they feel because I'm not sure cause I don't want to just stick to going to the property line, maybe like Jerry says, come in X number of feet so it's delineated that people can see that something's going on there. Okay, next issue.

MR. CAPPELLO: So this road will be the main access road off 300, we have met with the DOT as Tim will explain and we're at the point now where the DOT is, we'll be obtaining a permit from them prior to construction, but the DOT won't issue anything until they know SEQRA's done and it's a real, preliminary approvals are granted, and it's a real design. So we have proceeded as far with the DOT as we can go on the road issue. The other issue I know was outstanding in order to provide water service to the parcel we need to extend water district number 5 to encompass this parcel.

MR. PETRO: You're working with the town?

MR. CAPPELLO: We have a petition from the town, we have worked with Mark's office and Mr. McGoey to review the engineering report to determine what improvements need to be made to the water system to accommodate this.

MR. PETRO: Conceptually.

MR. CAPPELLO: Conceptually, we have agreed once again we're waiting for this board to act on SEQRA and preliminary so the Town Board can rely on the SEQRA approval from this board to actually hold a public hearing and extend the district. Those were the two issues, I know we have been discussing, we're in a sewer district and with that we'll give it to Tim and Tim can discuss the specifics of the project. After we're done with the presentation, if the board or public has any comments, if the board wants us to direct us to answer questions, we'll be happy to comply.

MR. PETRO: Number of acres and permitted number of units, it's 6 per acre, R-5, correct, what's the maximum number of units you can have here?

MR. MILLER: There's a density calculation pursuant to Section 48-12 of the code takes into consideration slopes and wetlands, we went through that process prior to applying and that's how we came to the yield of 124 residential units, I'm not sure what the gross density is in the zoning.

MR. PETRO: Is that the maximum? That's where I'm going.

MR. MILLER: Pretty much the maximum.

MR. PETRO: You didn't really take anything away.

MR. MILLER: There was certainly some penalties if you will for steep slopes, we have a small wetlands on the site, so I wouldn't say it was a maximum. If the property were flat and had no constraints, it's the maximum in light of the constraints on the site.

MR. CAPPELLO: It's 7,000 square feet per unit.

MR. PETRO: I approximated it as 6, it's probably a little more than that.

MR. MILLER: I'm with Tim Miller Associates, I'm the planner for the applicant. We submitted a full environmental assessment statement, a Part 3 a year ago included storm water report, traffic analysis, couple other investigations and that's been before the board for some time and we have amended it with some correspondence since then after we've had meetings with the DOT and so forth. I will repeat a few things that The site is located on 21.66 acres, John indicated. it's bounded on the north by Route 300 and on the south by the Consolidated Railroad Corporation, which is railroad tracks in the R-5 zoning district. largely an existing residential neighborhood site presently consists of second growth hardwood, various ages of growth and varying topo. There's a very small wetland on the site under the jurisdiction of U.S. Army Corps of Engineers about 7/10 of an acre. We have received the jurisdictional determination from the Corps located down in this location and as you can see from the plan, there's no activity proposed in proximity to the wetlands. We don't expect that we will require any permit from the Corps of Engineers for this project. There are three tax parcels on the property, one is about an acre and a half, one's about 4 acres and the other one's about 16 acres. The design of the project attempts to minimize impacts to areas of steep slopes. Obviously, we have avoided the wetlands and there's a small water course down there as we expect that when the site is developed, little more than half of the site would be disturbed in order to install the road infrastructure and the proposed buildings. We anticipate with the road and the buildings we'd probably have six and a half acres of impervious acreage, storm water management system addresses detailed provisions of storm water basins, vegetated swales and other types of best management practices that would be used to manage storm water quality and control rates of runoff from the site.

MR. PETRO: Is that the, where the bulk of it is going?

MR. MILLER: There's three detention ponds, one here, one here and one here, I believe this is the largest. Is this the largest?

MS. SAMUELSON: Right, that's the largest one, what we tried to do is maintain the existing drainage on the site cause this is a nob, it runs off in all different directions, so we tried to keep the water going in the same direction.

MR. PETRO: I always ask this question, very few people ever know the answer. Once it leaves the detention pond, where is it going, wherever it goes now?

MS. SAMUELSON: Exactly.

MR. LANDER: Is that across the highway to the other side of Route 300?

MS. SAMUELSON: There's a existing pipe that goes underneath 300 now it's located right at our access drive so yes, some of it will go that way, most of it actually, you know, ends up going towards the back of the site.

MR. LANDER: Going towards Conrail, that's going to run along side Conrail?

MS. SAMUELSON: There's a low point in this area, we're continuing to send it in that direction.

MR. PETRO: Your answer is just dispersing it at the same rate because it's a detention pond, going out now even though you have all the impervious area, same amount exactly.

MR. LANDER: Property owner next door is Charlie Dardone next door to the project?

MR. PETRO: No, Continental Manor.

MR. MILLER: With respect to the proposed units, they are expected to have three bedrooms each, 2 1/2 baths they'll range in size from 1,600 to 2,000 square feet, these are some of the elevation studies of the units, each of the units will have two off-street parking spaces, this is a uphill, there's two types of units, there's uphill units and downhill units, each of the units will have a garage and a parking space in the

driveway. The units will be sold as condos, there will be a condo association created that will manage the clubhouse and all the open space and the landscaping around the project. There's a community center that's located at the north end of the site, there's a swimming pool there, there will be a fitness center, a meeting room, a kitchen.

MR. PETRO: When you build the pool, you're going to have a fence around it, when the fence is put up around the pool, it will be inside the 35 foot setback, won't that create a zoning problem, Mark?

MR. EDSALL: If it's a 4 foot fence, it would likely not be a problem. Six foot in a rear yard is not a problem if it's--

MR. PETRO: I think you should look into that, you might have a zoning problem there.

MR. EDSALL: Depends on the height of the fence and if it's a front yard area so you'll need to look at the zoning on that.

MR. ARGENIO: What's code for a pool, 52?

MR. PETRO: It's 52, I know it is, that's New York State. Is ours the same as that, Mike?

MR. BABCOCK: Yes.

MR. LANDER: But your fence can be right on your property line.

MR. MILLER: Project would also be landscaped and as I indicated, each of the units would have landscaping around the units and there would be an entry feature, we provided a board with a visual specific, we took the specifications of the wall and the natural materials intended to be landscaped so you can get a pretty realistic view looking into the site what the entry feature would look like, very handsome stone wall that's intended to take or share the likeness of stone walls.

MR. PETRO: You have a lot of stone outcroppings that you're leaving so it's going to match that all.

MR. MILLER: Series of plant materials that will provide color during all seasons. We provided the board with a traffic study. The project is expected to generate about one car per minute during the morning and evening peak hours, somewhere between 60 and 75 vehicles. We projected about 50% will travel to the north, 50% to the south. We're proposing one access point onto Temple Hill Road, the access will consist of three 12 foot paved lanes, one inbound and two outbound that will separate left and right turning traffic. John indicated, we met with the New York State DOT in the field and we have also met with the Traffic and Safety Division and the Planning Division up at Region 8 in Poughkeepsie, the after discussions with the state it was suggested that the southerly access in fact was not necessary, there was a sight distance issue at that location, it was felt that the northerly access was workable. Also, the DOT is seeking to limit the number of curb cuts on Route 300 and as a result of that, we have eliminated that southerly access. We're advancing a work permit with the DOT, we're, our most recent correspondence from the DOT was dated August 8 addressed to the planning board. I don't believe that there are any significant issues in the DOT's letters and what they have basically advised us is that we will need a work permit for the curb curt in the state right-of-way and basically, they don't have a problem with the one primary access that's being proposed. With respect to utilities, as John indicated water service will be provided through an extension of water district number 5, there's currently a ten inch water main located at the eastern portion of the right-of-way of New York State 300, the property's in sewer district 17 and there's a 12 inch main located north of the site in Continental Manor residential development. Regarding the historic district that you mentioned, Mr. Petro, we did retain a state certified archeologist to do Phase 1A and 1B study, basically, that report has been submitted to the Office of Parks, Recreation and Historic Preservation, the methodology for the study was developed in concert with Office of Parks.

MR. PETRO: Copied our historian?

MR. MILLER: We have provided the town with ten copies of the document.

MR. PETRO: We have a letter back from him.

MR. MILLER: We do have a letter back from him and I will say we have made extensive and extraordinary efforts to try to keep him in the loop and be involved in the project. He's a guy who's hard to get ahold of. But nonetheless, 1A and 1B study included testing on the site. We also identified a couple areas where there was some sensitivity. We used a metal detector, we did a transection through certain areas to see if we can find anymore indication of either native American or European American or real Revolutionary war remains what we found was a possibility of a deer stand that had eroded on the property.

MR. PETRO: We've got to hold it up right there then. How about the old road that goes through there? I'm talking about not real old, the original Temple Hill Road road, there's parts that go through the property, you'll just rip that up?

MR. MILLER: Yes, basically, that road kind of follows I think part of this pathway.

MS. SAMUELSON: Comes through here.

MR. MILLER: So that would become part of our road system. We expect or hope to start this project early next year, we think it will be an 18 month construction period. Obviously, we will be posting performance bonds with the town for erosion control, sediment control, et cetera, we're going to need approvals from your board, the water district extension, the Department of Health for water main and sewer main extension.

MR. PETRO: How about sewer capacity, buy the points?

MR. MILLER: There's an agreement with Moodna for sewer capacity. So that's my presentation, Mr. Chairman and

we'd be happy to entertain any questions.

MR. PETRO: Can you repeat that?

MR. LANDER: Visitors parking, how many spots do you have for a block of units, three spaces for visitor parking?

MS. SAMUELSON: Three plus the clubhouse.

MR. LANDER: For each cluster of units you only have three spaces?

MR. MILLER: Yes.

MS. SAMUELSON: Right, one garage spot I guess plus the two in the driveway.

MR. LANDER: You're using the garage as a parking space? You're counting that in your calculation?

MR. MILLER: Yes.

MR. PETRO: This is a public hearing, at this time, I'm going to open it up to the public.

MS. MASON: When were they mailed out, the certified letters?

MS. SAMUELSON: Mailed out September 6.

MR. PETRO: On September 6, 2002, 10 addressed envelopes went out certified mail with the attached notice of public hearing, if anyone is here to speak for or against this application, please be recognized by the Chair, come forward and state your name and address and your concern. Would anyone like to speak? Yes, sir?

MR. KENNEDY: My name is Richard Kennedy, I live at Continental Manor as to Mrs. Coriffy, Mrs. Delasandro, Jim McKilly is our agent, I have one question. This is predicated upon the fact that this is the first time I've heard this, but I should like to ask a question concerning entrance egress onto 300. We have the

traffic now on 300 is horrendous, should this go through and I have heard the business about one whatever it was this is predicated I guess upon one car. Well, if the individuals who live there have two cars, does that change the focus at all and in consequence I'm asking what are they going to do about the traffic?

MR. MILLER: The traffic study is based on national inventories of projects of this nature, car ownership is generally not an issue when it comes to trip generation. What really is of concern is the volume of trips that are taking place during the peak commutation periods, that would be the morning period between 7 in the morning and 9 in the morning and the afternoon period between 4 and 6. The gentleman is correct, there are heavy volumes of traffic on Route 300. That's one of the reasons why we separated our left and right turn for egress to the property so there would be no delays for people making left turns which are when you have longer delays than right turns, but the trip generation numbers for the peak hour period is what was used based on information from the Institute of Transportation.

MR. PETRO: Generated from the count of unit in the site?

MR. MILLER: Based on the types of units and the number of units in the site, yes, and generally, 124 units as I indicated is going to generate somewhere between .5 and .6 trips per unit during the peak hour period during the course of the day, there will be other trips as people do errands, drop the kids off, pick them up after school, but statistics and studies have found that that's the typical trip generation.

MR. PETRO: How far is your entranceway away from the entranceway into Continental Manor, 300 feet?

MR. MILLER: Probably 400 feet.

MS. SAMUELSON: About 450 feet.

MR. PETRO: So I'm sure New York State DOT is going to

look at that saying somebody's pulling out of Continental Manor they have 450 feet sight distance.

MR. MILLER: They have looked at it, we were out in the field with them at our location and we do not believe there will be a problem.

MR. PETRO: I see you have 800 feet sight distance in the direction but you're 450 feet from the other entranceway, they felt that wasn't a problem?

MR. MILLER: The requirement generally for these type of curb cuts are 300 feet based on the DOT manual, so I don't think we're going to have a problem.

MR. PETRO: That curb entrance is going to be approved or disapproved by New York State DOT. It's not our call as far as the entranceway itself, the location of the entranceway, so they're going to do a complete review and give us their information and we're going to go with whatever they say.

MR. MILLER: They will not review this now until after this board has taken action for the work permit, so we have taken it as far as we can with the DOT right now.

MR. PETRO: Does that answer your question sufficiently?

MR. KENNEDY: Well, to an extent, it's rather unfair of me to discuss anything at this particular time because I'm not cognizant with that, concerning that which they're talking about, to end my sentence with a preposition. However, what I am most intrigued with is the traffic on that road, for example, every once in a while, somebody think's he's Water Middie and comes down there zooming away with wild abandon and I foresee with business picking up, school children and things of that nature there might be a tragedy in the offing.

MR. PETRO: Thank you. Yes, sir?

MR. MCKILLY: My name is Jim McKilly, I run real estate properties in the area, including Continental that the people here live in. I'm pretty familiar with the

traffic flows on that road. I'm familiar with studies also and unfortunately, you can't be in the field as opposed to studies, I really don't think these three bedroom units, predominately it's, obviously they're going to be occupied mostly by families who are at least going to have two cars per unit, so I find the traffic analysis although divided up correctly mathematically, I think in the course of human endeavor where people follow their normal plan of getting up in the morning, et cetera, isn't going to pan out. other words, a wife and a husband are basically going to head for New York City to commute because that's predominantly what this market is going to be and they are going to turn left, not going to turn right because they're going to start heading down towards Harriman to pick up the Thruway which I think is going to create a sizable problem for Five Corners, considering there has been quite a few accidents that have been very much a problem for Continental and some of the other areas in there, a lot of bodily harm, et cetera, to the point where there's flowers out on the road for people that have been bodily injured there. I think there's a tremendous underestimation of what the traffic issue is going to be there but that said, and I understand that the DOT is the one who's supposed to take a study on this, but just a couple, one other question I have, I understand there's a retention pond at the bottom of the site over next to the entranceway for Continental, is that correct?

MR. PETRO: Yes.

MR. MCKILLY: Are the elevations that are concerned with the complex going to be changed to create water in that area and if so, is there any preparations or to make that not go stagnant which would be a concern because it's already low.

MS. SAMUELSON: Right, it is already low, actually, it flows back this way and goes across the street so all the water that wouldn't go in this direction on Continental Manor, it would be directed back towards the existing culvert that goes underneath.

MR. MCKILLY: Well, that retention area is right next

to the entranceway, that's probably, like I said, from personal experience, I'm sure the rest of us would verify that's the lowest point and if the elevations up above change that I was concerned there's a drainage pipe in there but the drainage for the storm drainage going over there, but is that going to be attached to that? What's the purpose of the retention pond?

MS. SAMUELSON: The purpose, well, this, mainly this retention is for water quality for the area that we couldn't direct back to these ponds so basically, it's just from like here down so that the first blush runoff is not, you know, being directly, discharged into the DEC wetlands across the street, there's the water quality mitigation here before it's discharged.

MR. PETRO: In other words, sir, I think I know what you're asking is that detention pond in theory is supposed to let the water collect quickly in the detention pond and the invert is normally very high in the pond, as the water comes up, it will let the water out slow later after it stopped raining or as the water comes in at the same rate that it's already leaving the property without all the houses being built on it. In theory, the other part of the your question is better pointed in what keeps the water in the detention pond from getting stagnant if the invert is this high and you have this water at the bottom all the time.

MR. MCKILLY: Considering West Nile Virus, et cetera.

MR. PETRO: That's a good question. I always wondered about that myself.

MS. SAMUELSON: The detention ponds, you want them to infiltrate into the pond, you want ground water infiltration so we would I guess try to make the bed of the pond.

MR. PETRO: That's all shale and bedrock and clay so I don't believe it's going to go anywhere. I believe the water is going to sit in the ponds. This isn't your pond, it's all the detention ponds, I always wonder about that, just sitting there. I'm not a great proponent of detention ponds and seepage pits. It's a

convenient way to help builders get around the water problem of what to do with the water.

MR. LANDER: I think we should build in the timetable into the ponds that the water should not stand for any longer than 24 hours.

MR. PETRO: How are they going to do that?

MR. LANDER: They can do that.

MR. PETRO: Mark, what's the answer?

MR. EDSALL: I don't know if there's a good answer because unfortunately every development is bound by the new regulations adopted both by the Federal government and by the State, water quality ponds are intended to hold water and provide a treatment alternative so that contaminated water is not discharged into adjoining water bodies. Difficulty is that when you hold water you've got the West Nile issue until the water is gone.

MR. PETRO: One saving grace would be that the 124 units that are being built around these ponds are going to have the same concern that you are having, if anybody has any brains there, the homeowner's association would take some steps to spray or work it out, make sure that the water is not standing, if it is, then treat it.

MR. MILLER: Typically, what we try to do with these types of areas is make sure that they're properly landscaped, if you have biological activities in the ponds, you generally avoid a stagnant condition. Biological activity can include microinvertebrates crow, tadpoles, things of that nature. Generally, you can't have minnows in ponds where there's not a permanent pool of water.

MR. PETRO: Are you going to together supply the frogs?

MR. MILLER: I can assure you those frogs will be there within six months.

MR. PETRO: We're going to put that on the plan.

MR. MILLER: But I really rarely find problems where there's good biological activity with the proper plantings, they become like a wetlands.

MR. LANDER: It's not like a catch basin where the water stands in there.

MR. MILLER: No.

MR. PETRO: As far as the traffic on 300, sir, again, and I say this probably every public hearing, they have a right to the road the same as the last people did and as long as DOT looks at it and sight distance complies and they don't feel that that's a hazard to anybody getting hit there once they leave the site, it's not the applicant's problem down in the Five Corners, there's going to be more cars and I go through Five Corners, it's a nightmare and everybody else here does. And I agree with you, but we have to look at this the way the law looks at it and as this application as I said before I'm repeating myself they have a right to the road the same as Continental Manor did when they built it for you. anybody else on a different subject? Motion to close the public hearing.

MR. ARGENIO: So moved.

MR. BRESNAN: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board close the public hearing for the Covington Harp Estates site plan on a Temple Hill Road. Is there any further discussion from the board members? If not, roll call.

#### ROLL CALL

MR.	ARGENIO	AYE
MR.	BRESNAN	AYE
MR.	KARNAVEZOS	AYE
MR.	LANDER	AYE
MR.	PETRO	AYE

MR. PETRO: I will reopen it up to the board for

further comment. Do you have anything else in your presentation? I think that was complete. Mark, do you have any comments at this time?

MR. EDSALL: No, not at this time.

MR. PETRO: You need to get all the other things taken care of, water, sewer, I guess we're going to come back to the road. Tom, you have something?

MR. KARNAVEZOS: I'd really like to see some more visitor parking spaces, you have three parking spaces for 16 units right here in this corner, I know and you know they have company and you're going to need to do something about that.

MR. PETRO: You have enough refuse on this? I only see a couple here and there, I guess you did your homework and that's probably enough. Mark, why don't you look into that, it's a little sparse, we'll get back to you on the road.

MR. CAPPELLO: Just a couple questions as to who will coordinate on the water issue. Now we've been to the town but the town, it's kind of a chicken and egg, the town if we go to them and ask them to extend the water district before they have an indication that we have preliminary approval or SEQRA is completed, are they going to want to act or kick us back to say legitimately we have been there, we have worked out the details in concept, I mean, is that something you want us to pursue now or something that would wait till the, till we have preliminary approval?

MR. PETRO: What's left for preliminary?

MR. EDSALL: There is no such thing as preliminary approval on a site plan, that's the first problem. Second idea is John is absolutely right, the next normal step would be to close out SEQRA, we're not ready to do that at this time, but what John and I can do is follow up with Dick McGoey, see if he's made his recommendation, close it out with the town, see if they are waiting for you or willing to proceed, if they're willing to extend the district, it doesn't matter what

we do here, it will be out of the way.

MR. PETRO: I would prefer the Town Board extend the district before we do any approvals again.

MR. CAPPELLO: Well, the Town Board will have to do SEQRA also to extend the district, if you do SEQRA on the design and on the environmental impacts, it's very easy for them to say based upon the Planning Board's review, based upon the Planning Board we negative dec this to create the district, otherwise cause you are lead agency, you get into a chicken and the egg.

MR. PETRO: I agree with that statement but I still think that to have an approval on 124 units prior to having water available to them.

MR. CAPPELLO: It would be SEQRA conditioned upon us, we have to get the DOT to sign off and they're not going to move until SEQRA and the various other agencies aren't going to move until SEQRA's done, we can't build or get our site plan signed until we have all the approvals.

MR. PETRO: Work it out with Mark, get your chronological order in proper shape and we're going to go along with it conceptually, we have seen it a number of times, there's not a lot left to keep reviewing, reviewing, reviewing because nothing's really changing. If you have a comment from Tom that he wants to see some more parking, come up with an idea for that. Ron is going to look at landscaping around the ponds.

MR. LANDER: Do we need holes in the ground, maybe we can have these contain the waters underground, maybe we can look at something like that. I don't know how much of an area you have to cover with these three ponds.

MR. MILLER: They have all been sized to accommodate the amount of runoff. What we can do is, and percolation is there naturally, we can bring in materials and provide the percolation.

MR. PETRO: I'm going to talk to Mr. Kroll at the Highway Department, this is to be a town or private

road in here, Mark?

MR. CAPPELLO: It's really up to you, we were offering it to the town so the town has the ability if they wanted to.

MR. PETRO: I think the spine road.

MR. EDSALL: Wasn't that already closed on?

MR. CAPPELLO: I don't know, it was closed on, we were offering it, this could be a town road, but these spines.

MR. EDSALL: I think the town owns it now, I think the whole thing.

MR. CAPPELLO: No, we gave a deed to correct it.

MR. EDSALL: But I think Phil Crotty actually took the deed and recorded the deed, actually, there's a fee ownership.

MR. CAPPELLO: I don't know if he recorded it yet but okay.

MR. EDSALL: We should check to see what he did.

MR. PETRO: Just be prepared to bring the road to the property line, but I want to talk to Mr. Kroll to make sure he's going to, he's not going to say I don't want it there because I can't plow it. I'll talk to him.

MR. CAPPELLO: If we found out what because these aren't the first detention ponds and West Nile and I'm sure Continental Manor has a couple detention ponds and there are procedures now as to how to handle them, we we could put in a program if that was a concern.

MR. PETRO: Okay, thank you.

(Whereupon, a brief recess was taken.)

## **REGULAR ITEMS:**

## HIGHVIEW ESTATES SUBDIVISION (01-64)

Mr. Dan Yanosh appeared before the board for this proposal.

MR. PETRO: Application proposes subdivision of 21.2 acre parcel into six single family residential lots. Is this one we walked?

MR. EDSALL: Yes.

MR. PETRO: All the water was going into the neighbors. Is this the one that had the road made out of tree stumps? You took care of that. How about the incline going up?

MR. EDSALL: Six inches of mulch over it.

MR. YANOSH: I didn't read Mark's comments yet, but we, you took a site walk visit, we did do a joint inspection on all the lots, did a perc test with a representative from his office on the site and public hearing was closed last month.

MR. EDSALL: March.

MR. YANOSH: Yeah, March, I think we were here for public hearing and you have seen this two or three times already. Mark's got some more comments.

MR. EDSALL: Nothing important, minor stuff.

MR. PETRO: What do you want to get accomplished here tonight? Why are you here?

MR. YANOSH: Final approval.

MR. PETRO: Did you see applicant's request waiver of Town Board for sidewalks, what happened with the sidewalks?

MR. YANOSH: Still waiting, I guess the attorney hasn't sent that in yet, that's the Town Board, there's no

sidewalks out there on any subdivision up and down the street, so I don't think we'll have any problem with it.

MR. LANDER: Somebody's got to be the first.

MR. PETRO: Let me address the owner of the property again, there's 7 items from our engineer and some of the items have four or five items, sub-items.

MR. YANOSH: Curb detail, street sign standards.

MR. PETRO: I suggest he take this, go over it, work it out with Mark Edsall and come back. There's just too many items.

MR. EDSALL: Comment 2 are things that we mentioned in March that are still open, 3 I added just on some review of some new information we got.

MR. YANOSH: I thought the water quality issues were something we were looking at with the drainage coming down, I thought it was okay when you did the site visit.

MR. EDSALL: I don't recall if you looked at the treatment occurring in the ditch, if that's the case, I don't know whether or not it met the DEC standards with the length of the ditch or you have to put something in the ditch, I just don't know, I had that down as an open issue.

MR. YANOSH: I wasn't too sure what that was about.

MR. PETRO: Take the comments, use that as a worksheet, take care of it, I will put you on in two weeks, the next agenda. Also, get a letter from the waiver from the sidewalks, I'm not going to approve it, I don't think we're opposed to it because of the nature of it but you have to have it and but there's the comments to review. Okay? Thank you.

MR. EDSALL: One thing that we can possibly get out of the way so that it's done under 7 SEQRA, I don't have a record of us having a negative dec here. Myra, is that

#### correct?

MS. MASON: No, they didn't.

MR. EDSALL: Looking at this list, they're all, although there's a number of them, all minor corrections, I believe we can get that out of the way tonight.

MR. PETRO: Motion for negative dec.

MR. ARGENIO: So moved.

MR. BRESNAN: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board declare negative dec for Highview Estates major subdivision on Toleman Road. Is there any further discussion? If not, roll call.

## ROLL CALL

MR.	ARGENIO	AYE
MR.	BRESNAN	AYE
MR.	KARNAVEZOS	AYE
MR.	LANDER	AYE
MR.	PETRO	AYE

# KFC/LONG JOHN SILVER (HEADLEE CORP.) 02-26

Mr. Gregory Shaw of Shaw Engineering appeared before the board for this proposal.

MR. PETRO: Proposed demolition of existing building formerly Ponderosa, construction of new building within site improvements. Note for the minutes, Franny, that I do own the lands next to this application but I have nothing to do with this application. And also, Mark, I think there was some comment to whether or not the applicant actually needed site plan review for this or not because they're going to be building within the footprint of the existing building with the same existing use.

MR. EDSALL: Right.

MR. PETRO: Bring us up to date with that.

MR. EDSALL: Comments kind of acknowledge the fact that this is one of those cases where they have to come in but in some regards it makes no sense that they're made to come in. We've got a situation of an existing site continuing in the same use that they could go into the same building and make no improvements and not that it looks, it doesn't look good, but it wouldn't look any better and they could move in tomorrow and continue their use and we'd have no opportunity to work with them to improve the site. Instead, they want to improve it, unfortunately for them, that triggers the need to come in for a site plan approval because they are modifying the parking, changing the building, in fact, this plan eliminates one pre-existing non-conformance, the front yard setback, so they're forced to come in and go through this process even though they're making a situation better. So this is one of the cases where if anything, we should work with them and accelerate the process and thank them for coming in and making it better because they could go into the same building and just continue so they are here, it's an improvement, they're making it meet the current regulations with the exception of lot width, correct, Greg?

MR. SHAW: Correct.

MR. PETRO: Mark, one important thing to note is that the curb entrances or anything in the New York State DOT right-of-way they're not going to be affected in any way so it's all internal?

MR. EDSALL: Everything proposed is within the lot area and there are no other agencies that are, that have no other, other than the health department.

MR. PETRO: No zoning changes issues arise from the change?

MR. EDSALL: They're improving one item.

MR. LANDER: Going to change the lighting on the outside, I see there's light poles, is there existing light poles now?

MR. SHAW: Yes, there are, if you turn to drawing number 2, that's the existing conditions plan, that's the Ponderosa site as it presently exists, edge of pavement, building and light poles.

MR. PETRO: Going to be doing repaving?

MR. SHAW: There's going to be an overlay, some areas we're going to be taking out blacktop, very small areas, there's also going to be very small areas where we're adding blacktop, such as the building is smaller than the building that's there, therefore, we're going to have to blacktop that area and that's the shaded areas that you will see on this site plan, but for the most part, it's an overlay and it's a restriping job.

MR. LANDER: Mr. Shaw, these are lights here, aren't they?

MR. SHAW: Correct.

MR. LANDER: New lights?

MR. SHAW: Correct. What we have generated in addition to a new parking plan with striping and such is a

lighting plan as if it was a new application and we also generated a landscaping plan again as if it was a new application.

MR. PETRO: We have fire approval on 8/6/2002 and highway looked at it and approved it anyway but it's an approval 9/10/02. Motion for lead agency.

MR. ARGENIO: So moved.

MR. LANDER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board declare itself lead agency. Is there further discussion? If not, roll call.

ROLL CALL

MR. ARGENIO AYE
MR. BRESNAN AYE
MR. KARNAVEZOS AYE
MR. LANDER AYE
MR. PETRO AYE

MR. PETRO: Public hearing I think it's the exact same use.

MR. ARGENIO: Do we have to waive?

MR. PETRO: Waive under discretionary judgment, exact same use, making the building smaller, improving the front yard setback.

MR. ARGENIO: Make a motion we waive.

MR. BRESNAN: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board waive the public hearing under its discretionary judgment for the KFC/Long John Silver site plan. Is there any further discussion from the board members? If not, roll call.

ROLL CALL

September 25, 2002

MR. ARGENIO AYE
MR. BRESNAN AYE
MR. KARNAVEZOS AYE
MR. LANDER AYE
MR. PETRO AYE

MR. PETRO: Motion for negative dec.

MR. ARGENIO: So moved.

MR. BRESNAN: Second it.

MR. PETRO: Motion has been made and seconded that the Windsor Planning Board declare negative dec under the SEQRA process for the KFC/Long John Silver site plan. Any discussion? If not, roll call.

#### ROLL CALL

MR. ARGENIO AYE
MR. BRESNAN AYE
MR. KARNAVEZOS AYE
MR. LANDER AYE
MR. PETRO AYE

MR. PETRO: Planning board should require that a bond estimate be submitted in accordance with Chapter 19 of the Town Code which you're well aware of, Mr. Shaw?

MR. SHAW: Yes.

MR. PETRO: Mark, any outstanding issues or any reason that we should not go further?

MR. EDSALL: No, matter of fact, as Greg indicated, he gave us a complete package as if it was a new site and I looked it over with him and I think it's in great shape.

MR. PETRO: Comments from the board members? Any further comments?

MR. KARNAVEZOS: No.

MR. LANDER: No.

MR. ARGENIO: No.

MR. BRESNAN: No.

MR. PETRO: Motion for final.

MR. ARGENIO: So moved.

MR. BRESNAN: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board grant final approval to the Kentucky Fried Chicken site plan amendment on Route 32. Is there any further discussion? If not, roll call.

#### ROLL CALL

MR.	ARGENIO	AYE
MR.	BRESNAN	AYE
MR.	KARNAVEZOS	AYE
MR.	LANDER	AYE
MR.	PETRO	AYE

MR. SHAW: I have one other request on this application, if I may, first I'd like to thank the board for the quick approval on this recognizing that it is relatively simple. My client is under the gun with respect to starting construction and delivering this building by the end of the year. What I would ask this board to consider is allowing him to get a foundation permit without having stamped plans, again recognizing he'd be proceeding at his own risk, all right, which would allow him to save maybe a week or two in the construction process. A week or two does not sound like it's much now, but into December, it gets to be very important.

MR. PETRO: I'll poll the board.

MR. ARGENIO: No problem.

MR. BRESNAN: No problem.

MR. KARNAVEZOS: No.

MR. LANDER: No problem.

MR. PETRO: You got it.

MR. SHAW: We'll work out the details with the building

inspector. thank you.

MR. PETRO: I hope we didn't hold you up.

# SCHLESINGER SUBDIVISION (02-27)

Gregory Shaw of Shaw Engineering appeared before the board for this proposal.

MR. PETRO: Proposed 6 lot residential subdivision. Application proposes subdivision of 45.1 acre parcel into 6 single family residential lots on a private road. Plan was reviewed on a concept basis only. It's R-1 zone, which is permitted, bulk information is correct for the zone and use table should be updated to note minimums of lot area gross and lot area net. Greg?

MR. SHAW: Yes. Mark mentioned that to me, the net and the gross values are indicated on each individual lot but Mark wants them incorporated into the table, be more than happy to do that. All right, very quickly, Mr. Chairman, as you mentioned, this is a 45 acre parcel of land in an R-1 residential zone, minimum lot area 80,000 square feet. Presently on the site there is one residence and some associated barns what we're proposing is to create a total of 6 lots that would be 5 new lots plus the existing residence. They are going to be serviced by a private road approximately 650 feet in length which is going to terminate off a cul-de-sac just short of the Federal freshwater wetlands. that, there will be two large size lots to the east of the cul-de-sac. What I would ask the board tonight to do is to assume lead agency status and I believe by law you're required to set up a public hearing, I would ask that you would do that also in order to move this process along.

MR. PETRO: Let the board members digest it for a minute, I've seen the plan, see if they have any comments. I'll take a motion for lead agency.

MR. ARGENIO: So moved.

MR. BRESNAN: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board declare itself lead agency under the SEQRA process for the Schlesinger subdivision

on Station Road. Is there any further discussion from the board members? If not, roll call.

### ROLL CALL

MR.	ARGENIO	AYE
MR.	BRESNAN	AYE
MR.	KARNAVEZOS	AYE
MR.	LANDER	AYE
MR.	PETRO	AYE

MR. SHAW: Mr. Chairman, two other important points maybe I glossed over too quickly, the drawings before you we did all of our percolation tests and deep pit tests and every lot has a septic system designed so the suitability of the soil is not in question, each lot can take a sewage disposal system and again, due to only creating a total of 6 lots, 2 of which are well in excess of five acres by law we're not required to go to the Orange County Department of Health for realty subdivision approval. So I believe that the approval process just stays with this board.

MR. PETRO: Well, let's talk a little bit about the driveway and road, Greg, cause I talked to Mark a little bit bit and I don't know if I discussed it with you or not, my concern was that it's a private road coming in 600 feet, I think we have a maximum of 800, if you look at the driveway extending off the cul-de-sac, it's pretty long, obviously. So Mark had suggested we can have a driveway any length that if you put a median between the two and it would be more delineated as driveways.

MR. SHAW: And the drawings reflect that if you were to turn to drawing number 2, Mark brought that up at the workshop meeting and I was able to incorporate that into the drawings, I have two separate and distinct driveways with the grass median between them.

MR. ARGENIO: Almost looks like you're part of the wetlands there.

MR. PETRO: He probably is.

MR. SHAW: That's, well, there's a drive there now that's how they access the other portion of the site.

MR. ARGENIO: Mark, we're under the threshold for square footage for a private road on these lots?

MR. EDSALL: Private road is fine. Normally, you don't like having driveways this long but this is kind of a unique case because you really can't extend the private road and ask for a waiver because then you'd have too much wetlands disturbance.

MR. ARGENIO: I was more referring to how does the law read, maybe it's the Orange County Department of Health Law I think it is when you hit the fifth lot over a certain size, you have to go to a public road.

MR. EDSALL: No, for the Realty subdivision, if you create the fifth lot under five acres, it's now defined as a Realty Subdivision of the State Law and you have to go to the Health Department.

MR. LANDER: But in answer to your question on the private roads 800 feet for the length of the road.

MR. ARGENIO: So the size of the lot has nothing to do with it.

MR. PETRO: You have to get to the other.

MR. EDSALL: Normally, the reason why you don't want a narrow long driveway it could very easily become obstructed and prohibit emergency access. This is a little unique in the fact that they've got the major section and they have to limit their disturbance, the method that they're using by keeping two separate driveways complies with the law but provides a secondary benefit if one side ever became obstructed, emergency vehicles could hope across and use the other one so kind of meets our needs but doesn't create wetlands disturbance.

MR. PETRO: Motion to have a public hearing.

MR. BRESNAN: So moved.

MR. LANDER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board have a public hearing for the Schlesinger subdivision on Station Road. Any further discussion? Roll call.

## ROLL CALL

MR. ARGENIO AYE
MR. BRESNAN AYE
MR. KARNAVEZOS AYE
MR. LANDER AYE
MR. PETRO AYE

MR. PETRO: Get together with Highway, get it set up.

MR. SHAW: It will come together very quickly, Mr. Chairman.

MR. PETRO: Thank you.

#### DISCUSSION

# NEW YORK INTERNATIONAL PLAZA - ENVIRONMENTAL REVIEW

MR. PETRO: Mark, want to bring us up to date?

MR. EDSALL: Yes, the folks from First Columbia who are the applicants for the New York International Plaza previously submitted a list of items that they would suggest constitute the scope for the EIS. My suggestion is that each of you take the opportunity between tonight's meeting and the next meeting to please look at it, if you see anything that you disagree with or believe has to be expanded or things that you missed altogether, please jot it down, get a note to Myra, note to me, fax me, whatever because we've really got to get this scope nailed down because we're way out of--

MR. PETRO: Are we going to have a scoping session?

MR. EDSALL: That's the second issue you have to accept in format a scope that you'd have a choice of adopting or holding a public scoping session, it's your choice. The public scoping sessions optional, my personal opinion is that they serve limited benefit because people can come to the public hearing and ask questions and that mandates that they address it so it gets addressed either way.

MR. PETRO: Instead of having the scoping session, why not have a third party hired by the town to review it?

MR. EDSALL: That's a good item. My suggestion on a project of this scope or size is that the board consider bringing in a separate planning consultant to work with me to review it.

MR. PETRO: Do you have somebody that you can do that with?

MR. EDSALL: Yes, I think we wanted to have a fresh look, we could either have Stu Turner Associates or Garling Associates, someone of that size.

MR. PETRO: Stu Turner, should the board make that into the form of a motion to have a third party or--

MR. EDSALL: If you just believe it's appropriate, we'll just bring them on.

MR. PETRO: Anybody object instead of having a scoping session have a third party review it and that would certainly--

MR. EDSALL: And they'd review the EIS once it's prepared.

MR. ARGENIO: I think that's a good idea. I don't have the expertise to determine which firm.

MR. PETRO: Whoever he decides.

MR. EDSALL: It's too big a project not to have a fresh view.

MR. ARGENIO: I agree.

MR. PETRO: You'll take care of that?

MR. EDSALL: Yes.

MR. PETRO: We'll review these ourselves, if we come up--

MR. EDSALL: Please get something back, I'd like to incorporate your comments into a new version of the scope and then sit down with whatever consultant is on it.

MR. PETRO: Any other comments?

MR. KARNAVEZOS: Just got a question. Have they come up with another master plan or I mean any designs, anything as of late?

MR. EDSALL: They're very difficult to nail down.

MR. PETRO: Motion to adjourn?

MR. BRESNAN: So moved.

MR. ARGENIO: Second it.

ROLL CALL

MR.	ARGENIO	AYE
MR.	BRESNAN	AYE
MR.	KARNAVEZOS	AYE
MR.	LANDER	AYE
MR.	PETRO	AYE

Respectfully Submitted By:

Frances Roth Stenographer